

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the  
Commission's Own Motion into Competition for  
Local Exchange Service.

Rulemaking 95-04-043  
(Filed April 26, 1995)

Order Instituting Investigation on the  
Commission's Own Motion into Competition for  
Local Exchange Service.

Investigation 95-04-044  
(Filed April 26, 1995)  
**(FCC Triennial Review  
Nine-Month Phase)**

**ADMINISTRATIVE LAW JUDGE'S RULING  
REGARDING RESPONDENTS' OBLIGATIONS  
TO RESPOND TO DISCOVERY BY PARTIES**

This ruling affirms the responsibilities of respondents to respond to discovery by individual parties in connection with this proceeding. This ruling is prompted by the dispute between Comcast, a respondent, and SBC California (SBC), a party to the proceeding, as indicated in electronic messages forwarded by SBC and Comcast, dated November 14, 2003. There is a disagreement as to whether Comcast must respond to discovery submitted in this proceeding by SBC.

Comcast's position is that, as a respondent, its obligation is limited to responding to the questions set forth in the October 22, 2003 letter from Commissioner Kennedy. Comcast argues that Commissioner Kennedy did not require or compel non-parties to submit to discovery from other parties. SBC's position is that, as a respondent, Comcast is required to respond to the discovery of individual parties to the proceeding.

Although Commissioner Kennedy directed respondents to reply to the questions posed by the Commission staff, her letter also informed respondents that individual parties to the proceeding may request supplemental information from them. In this regard, Commissioner Kennedy's letter stated that:

“Please be advised that supplemental requests for information may be required. The obligations established for compliance with data requests above will also apply to such supplemental requests. In addition to the information solicited by the Commission, *individual parties to this proceeding may also engage in discovery involving your company*. Any confidential information you provide to them shall likewise be subject to the attached Protective Order.” (Emphasis added).

To the extent that Comcast believes that the above-quoted excerpt from Commissioner Kennedy's letter is not sufficiently clear, this ruling so affirms respondents' obligation to be cooperative in responding to individual parties' supplemental discovery in connection with this proceeding. The fact that a respondent chooses not to become a formal party of record to the proceeding does not relieve the respondent from its obligations to cooperate with discovery from individual parties relating to this Triennial Review proceeding. To the extent a respondent is in dispute with a party over a specific element of a data request, the dispute may be brought before the Commission for resolution through its adopted law and motion procedures. Respondents are not entitled, however, simply to refuse categorically to respond to discovery posed by parties in this proceeding based merely on the claim that they are a respondent only.

Accordingly, under its obligations as a respondent to this proceeding, Comcast is directed to cooperate in responding to data requests from SBC, or other individual parties of record with respect to the Triennial Review Proceeding.

**IT IS RULED** that:

1. Respondents' obligations in responding to discovery with respect to the nine-month phase of this Triennial Review Proceeding extend to data requests from parties of record.
2. Comcast is directed to cooperate in responding to data requests from SBC, or other individual parties of record with respect to the Triennial Review Proceeding.

Dated November 19, 2003, at San Francisco, California.

/s/ THOMAS R. PULSIFER

Thomas R. Pulsifer  
Administrative Law Judge

## CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Respondents' Obligations on all parties of record in this proceeding or their attorneys of record.

Dated November 19, 2003, at San Francisco, California.

/s/ KRIS KELLER

Kris Keller

## N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at

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(415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.